

# Agriculture and Wildlife

See full summary documents for additional detail

## **H467 - Agriculture and Forestry Nuisance Remedies. (SL 2017-11)**

S.L. 2017-11 limits the amount of compensatory damages that may be awarded in a private nuisance action against an agricultural or forestry operation to the fair market value or fair rental value of the plaintiff's property.

This act became effective May 11, 2017, and applies to causes of action commenced or brought on or after that date.

**BACKGROUND:** Nuisance law in North Carolina is governed by the common law. Private nuisance is defined as any unreasonable invasion of a person's interest in the private use and enjoyment of his or her land by any type of liability-forming conduct. Determining whether an interference is unreasonable is largely fact-specific and determined by the circumstances in each case.

## **H559 - Outdoor Heritage Enhanced. (SL 2017-182)**

S.L. 2017-182 expands Sunday hunting with firearms by removing certain restrictions on Sunday hunting on private land, allowing Sunday hunting on game lands, and allowing migratory bird hunting on Sunday subject to the rules of the Wildlife Resources Commission (WRC). WRC may not authorize Sunday hunting of migratory birds prior to March 1, 2018, and must complete a study examining biological and resource management impacts, economic impacts, and social impacts associated with hunting migratory birds on Sunday by March 1, 2018. The law now requires any county ordinance prohibiting hunting on Sunday to be approved by a majority of voters in a county-wide referendum.

The portion of the law pertaining to ordinances prohibiting Sunday hunting becomes effective October 1, 2017. The remainder of S.L. 2017-182 became effective July 25, 2017.

## **S131 - Regulatory Reform Act of 2016-2017. (SL 2017-10)**

S.L. 2017-10 amends State laws related to the following:

## **S196 - Veterinary Practice Omnibus. (SL 2017-146)**

S.L. 2017-146 clarifies that a license from the North Carolina Veterinary Medical Board is not required to engage in the activity or profession of shoeing hooved animals, and directs the Veterinary Division of the Department of Agriculture and Consumer Services to study veterinary pharmaceutical compounding.

This act became effective July 20, 2017.

**S257 - Appropriations Act of 2017.**

**Sec. 12.1: Eliminate Pesticide Advisory Committee. (SL 2017-57)**

Sec. 12.1 of S.L. 2017-57 abolishes and removes statutory references to the Pesticide Advisory Committee, and transfers all records, property, and unexpended balances of funds of the Committee to the Structural Pest Control and Pesticides Division of the Department of Agriculture and Consumer Services.

This section became effective July 1, 2017.

**S257 - Appropriations Act of 2017.**

**Sec. 12.2: Supplemental Funding for Department of Agriculture and Consumer Services. (SL 2017-57)**

Sec. 12.2 of S.L. 2017-57 provides \$250,000 in additional funding to the Department of Agriculture and Consumer Services (DACS). DACS may spend the funds to participate in ongoing litigation challenging the United States Environmental Protection Agency's Waters of the United States rule issued in 2015. The provision also authorizes DACS to employ and supervise private counsel if it elects to participate in the litigation.

This section became effective July 1, 2017.

**S257 - Appropriations Act of 2017.**

**Sec. 12.4: Keep Linville Nursery Open. (SL 2017-57)**

Sec. 12.4 of S.L. 2017-57 directs the North Carolina Forest Service to continue operations at the Linville River Nursery in Avery County during the 2017-2018 fiscal year and not to close the nursery without authorization from the General Assembly.

This section became effective July 1, 2017.

**S257 - Appropriations Act of 2017.**

**Sec. 12.5: Healthy Food/Small Retailer. (SL 2017-57)**

Sec. 12.5 of S.L. 2017-57 directs the Department of Agriculture and Consumer Services (DACS) to create a program to reimburse small food retailers for expenditures relating to enhancing access to healthy foods in food desert zones. Funds may be used to reimburse small food retailers for the purchase and installation of refrigeration equipment, display shelving, and other equipment necessary for stocking nutrient-dense foods. \$250,000 is appropriated to the program, and DACS may reimburse a single small food retailer up to \$25,000. To be eligible for the program, a small food retailer must accept or agree to accept Supplemental Nutrition Assistance Program (SNAP) and Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) benefits. DACS must report to the Joint Legislative Oversight

Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division by October 1, 2018, on the activities, number of small food retailers receiving reimbursement, how funds were used by the small food retailers, and the gross amount of food in dollars sold to customers by participating small food retailers.

This section became effective July 1, 2017.

## **S257 - Appropriations Act of 2017.**

### **Sec. 12.6: Beehive Grant Fund. (SL 2017-57)**

Sec. 12.6 of S.L. 2017-57 creates the Beehive Grant Program within the Department of Agriculture and Consumer Services. The program, funded for the 2017-2018 fiscal year by a \$25,000 allocation from the Agricultural Development and Farmland Preservation Trust Fund, would provide up to \$200 per hive up to a maximum of 12 hives per grant recipient to support the purchase of a new beehive or materials for the construction of a new beehive.

This section became effective July 1, 2017.

## **S257 - Appropriations Act of 2017.**

### **Sec. 12.9: Forest Service Disaster Funds. (SL 2017-57)**

Sec. 12.9 of S.L. 2017-57 allows the Department of Agriculture and Consumer Services to use unencumbered and unexpended funds allocated to the North Carolina Forest Service by the Disaster Recovery Act of 2016 (S.L. 2016-124) to purchase and remove swine operations located in the 100-year floodplain in any county eligible for funding under S.L. 2016-124. S.L. 2016-124 appropriated \$25,500,000 to the North Carolina Forest Service for repairs and operational expenses at Claridge Nursery in Wayne County, wildfire response, and disaster-related timber restoration.

The "100-year floodplain" means any area subject to inundation by the one percent (1%) annual chance flood event, as indicated on the most recent Flood Insurance Rate Map prepared by the Federal Emergency Management Agency under the National Flood Insurance Program.

This section became effective July 1, 2017.

## **S257 - Appropriations Act of 2017.**

### **Sec. 13.27: Funding for Oyster Highway Project. (SL 2017-57)**

Sec. 13.27 of S.L. 2017-57 requires \$100,000 of the funds appropriated in the budget for oyster sanctuaries to be allocated to the North Carolina Wildlife Habitat Foundation for the Oyster Highway project on the New River in Onslow County. The Foundation must report to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division on its use of the funds by September 1, 2018. This section became effective July 1, 2017.

## **S257 - Appropriations Act of 2017.**

### **Sec. 13A.1: Mattamuskeet Lodge Repairs. (SL 2017-57)**

Sec. 13A.1 of S.L. 2017-57 directs the Wildlife Resources Commission (WRC) to complete repairs to the roof and tower stabilization at the Mattamuskeet Lodge in Hyde County. WRC must utilize funds available to it for the renovations, which must be completed no later than June 30, 2018.

This section became effective July 1, 2017.

## **S257 - Appropriations Act of 2017.**

### **Sec. 13A.2: Wildlife Endowment Fund Changes. (SL 2017-57)**

Sec. 13A.2 of S.L. 2017-257 makes several changes to the statute governing the administration by the Wildlife Resources Commission (WRC) of the Wildlife Endowment Fund. This fund receives the proceeds from the sale of lifetime hunting and fishing licenses:

- 2013 legislation added to the Wildlife Endowment Fund statute a requirement that the Wildlife Resources Commission budget 50% of the annual expendable interest from the Fund whenever the Fund's cash balance exceeds one hundred million dollars. Subsection 13A.2(a) amends the statute to reduce this budgeting requirement to 25% of the annual expendable interest.
- Section 13A.2 also amends the statute governing the investment of the Wildlife Endowment Fund by the State Treasurer to allow investment of Fund assets in equity securities and certain other private equity investment categories.

This section became effective July 1, 2017.

## **S257 - Appropriations Act of 2017.**

### **Sec. 13A.3: Modify License Fees Required to Hunt, Fish, or Trap. (SL 2017-57)**

Sec. 13A.3 of S.L. 2017-257 amends the statutory limit on increases in fees for hunting, fishing, trapping and other activity licenses issued and administered by the Wildlife Resources Commission (WRC) to allow a fee increase to reflect the total increase in the Consumer Price Index since the last fee revision. The original statute capped fee increases at the annual increase in the Consumer Price Index averaged over the last five years, which encouraged WRC to adopt relatively small annual increases in fees or have its inflation-adjusted fee receipts diminish over time.

This section became effective July 1, 2017.

## **S257 - Appropriations Act of 2017.**

### **Sec. 14.1: Various NER Agency Report Changes. (SL 2017-57)**

Section 14.1 of S.L. 2017-57 makes various changes to budget or funding reporting requirements in statute or session law for the Departments of Environmental Quality, Commerce, Natural and Cultural Resources, Labor, and Agriculture and the Tobacco Trust Fund Commission. The changes include changes to report recipients to reflect the creation of the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources as well as other technical and conforming revisions.

This section became effective July 1, 2017.

## **S615 - North Carolina Farm Act of 2017. (SL 2017-108)**

S.L. 2017-108 made various changes to laws governing agricultural matters, including provisions involving the following:

- Agriculture and forestry awareness study commission studies
- Expand facilities exempt from EMC rule
- Present use-value change
- Abandoned livestock amendments
- Authority of the Department of Agriculture and Consumer Services to adopt and administer forest practice guidelines for purposes of the sedimentation pollution control act
- Assent to mutual aid provisions of the Great Plains Wildland Protection Compact
- Clarify activities incident to the farm and agritourism
- Eliminate county authority to adopt zoning regulations governing swine farms
- Allow food compliance inspectors to drive state vehicles without state tags and bumper stickers
- Meat and poultry technical corrections
- Modernize forest ranger statutes
- Allow emergency workers to receive worker's compensation when responding to non-fire emergencies
- Create exception from conservation benefit analysis for certain easements
- Exempt farm trucks that stay in State from having a USDOT identification number
- Exempt closure of hog lagoons from requiring the use of a professional engineer
- Exempt farm vehicles engaged in intrastate commerce from certain federal motor carrier safety regulations
- Authorize wine sales at farmers markets
- Allow extension of conditional exemption from sales and use tax for certain farmers
- Amend conditions that may be applied to agreements for the purchase of agricultural products